



Virginia  
Regulatory  
Town Hall

## Final Regulation Agency Background Document

<b>Agency Name:</b>	Board of Audiology and Speech-Language Pathology
<b>VAC Chapter Number:</b>	18 VAC 30-20-10 et seq.
<b>Regulation Title:</b>	Regulations Governing the Practice of Audiology and Speech-Language Pathology
<b>Action Title:</b>	Licensure for Speech-Language Pathologists-Limited
<b>Date:</b>	May 1, 2000

Please refer to the Administrative Process Act (§ 9-6.14:9.1 et seq. of the *Code of Virginia*), Executive Order Twenty-Five (98), Executive Order Fifty-Eight (99) , and the *Virginia Register Form, Style and Procedure Manual* for more information and other materials required to be submitted in the final regulatory action package.

### Summary

*Please provide a brief summary of the new regulation, amendments to an existing regulation, or the regulation being repealed. There is no need to state each provision or amendment; instead give a summary of the regulatory action. If applicable, generally describe the existing regulation. Do not restate the regulation or the purpose and intent of the regulation in the summary. Rather, alert the reader to all substantive matters or changes contained in the proposed new regulation, amendments to an existing regulation, or the regulation being repealed. Please briefly and generally summarize any substantive changes made since the proposed action was published.*

Amendments are proposed pursuant to a statutory mandate in Chapters 967 and 1005 of the 1999 Acts of the Assembly which provide for the Board to license school speech-language pathologists upon review of credentials and payment of an application fee. The credentials for the new license are set forth in the Code of Virginia, which mandates that the board "*shall license, as school speech-language pathologists, persons licensed by the Board of Education with an endorsement in speech-language pathology and a master's degree in speech-language pathology.*"

There were no changes made to the regulation since it was published as proposed.

### Changes Made Since the Proposed Stage

*Please detail any changes, other than strictly editorial changes, made to the text of the proposed regulation since its publication. Please provide citations of the sections of the proposed regulation that have been altered since the proposed stage and a statement of the purpose of each change.*

There were no changes made to the proposed regulation since it was published and sent to interested parties for public comment.

### Statement of Final Agency Action

*Please provide a statement of the final action taken by the agency: including the date the action was taken, the name of the agency taking the action, and the title of the regulation.*

The Board of Audiology and Speech-Language Pathology adopted final amendments to 18 VAC 30-20-10 et seq., Regulations Governing the Practice of Audiology and Speech-Language Pathology on March 25, 2000.

### Basis

*Please identify the state and/or federal source of legal authority to promulgate the regulation. The discussion of this statutory authority should: 1) describe its scope and the extent to which it is mandatory or discretionary; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. In addition, where applicable, please describe the extent to which proposed changes exceed federal minimum requirements. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority, shall be provided. If the final text differs from that of the proposed, please state that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the final regulation and that it comports with applicable state and/or federal law*

18 VAC 30-20-10 et seq. Regulations Governing the Practice of Audiology and Speech-Language Pathology was promulgated under the general authority of Title 54.1 of the Code of Virginia.

*Chapter 24 establishes the general powers and duties of health regulatory boards including the responsibility to promulgate regulations, levy fees, administer a licensure and renewal program, and discipline regulated professionals.*

*§ 54.1-2400. General powers and duties of health regulatory boards.--The general powers and duties of health regulatory boards shall be:*

1. *To establish the qualifications for registration, certification or licensure in accordance with the applicable law which are necessary to ensure competence and integrity to engage in the regulated professions.*
2. *To examine or cause to be examined applicants for certification or licensure. Unless otherwise required by law, examinations shall be administered in writing or shall be a demonstration of manual skills.*
3. *To register, certify or license qualified applicants as practitioners of the particular profession or professions regulated by such board.*
4. *To establish schedules for renewals of registration, certification and licensure.*
5. *To levy and collect fees for application processing, examination, registration, certification or licensure and renewal that are sufficient to cover all expenses for the administration and operation of the Department of Health Professions, the Board of Health Professions and the health regulatory boards.*
6. *To promulgate regulations in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.) which are reasonable and necessary to administer effectively the regulatory system. Such regulations shall not conflict with the purposes and intent of this chapter or of Chapter 1 and Chapter 25 of this title.*
7. *To revoke, suspend, restrict, or refuse to issue or renew a registration, certificate or license which such board has authority to issue for causes enumerated in applicable law and regulations.*
8. *To appoint designees from their membership or immediate staff to coordinate with the Intervention Program Committee and to implement, as is necessary, the provisions of Chapter 25.1 (§ 54.1-2515 et seq.) of this title. Each health regulatory board shall appoint one such designee.*
9. *To take appropriate disciplinary action for violations of applicable law and regulations.*
10. *To appoint a special conference committee, composed of not less than two members of a health regulatory board, to act in accordance with § 9-6.14:11 upon receipt of information that a practitioner of the appropriate board may be subject to disciplinary action. The special conference committee may (i) exonerate the practitioner; (ii) reinstate the practitioner; (iii) place the practitioner on probation with such terms as it may deem appropriate; (iv) reprimand the practitioner; (v) modify a previous order; and (vi) impose a monetary penalty pursuant to § 54.1-2401. The order of the special conference committee shall become final thirty days after service of the order unless a written request to the board for a hearing is received within such time. If service of the decision to a party is accomplished by mail, three days shall be added to the thirty-day period. Upon receiving a timely written request for a hearing, the board or a panel of*

*the board shall then proceed with a hearing as provided in § 9-6.14:12, and the action of the committee shall be vacated. This subdivision shall not be construed to affect the authority or procedures of the Boards of Medicine and Nursing pursuant to §§ 54.1-2919 and 54.1-3010.*

*11. To convene, at their discretion, a panel consisting of at least five board members or, if a quorum of the board is less than five members, consisting of a quorum of the members to conduct formal proceedings pursuant to § 9-6.14:12, decide the case, and issue a final agency case decision. Any decision rendered by majority vote of such panel shall have the same effect as if made by the full board and shall be subject to court review in accordance with the Administrative Process Act. No member who participates in an informal proceeding conducted in accordance with § 9-6.14:11 shall serve on a panel conducting formal proceedings pursuant to § 9-6.14:12 to consider the same matter.*

*12. To issue inactive licenses and certificates and promulgate regulations to carry out such purpose. Such regulations shall include, but not be limited to, the qualifications, renewal fees, and conditions for reactivation of such licenses or certificates.*

In addition to provisions in § 54.1-2400 which authorize the Board to set qualifications and standards for licensure, the Code provides a **mandate** for this licensure in:

**§ 54.1-2603. License required.**

*A. In order to practice audiology or speech pathology, it shall be necessary to hold a valid license.*

*B. Notwithstanding the provisions of subdivision 2 of § 54.1-2601 or any Board regulation, the Board of Audiology and Speech-Language Pathology shall license, as school speech-language pathologists, persons licensed by the Board of Education with an endorsement in speech-language pathology and a master's degree in speech-language pathology. The Board of Audiology and Speech-Language Pathology shall issue licenses to such persons without examination, upon review of credentials and payment of an application fee in accordance with regulations of the Board for school speech-language pathologists.*

*Persons holding such licenses as school speech-language pathologists, without examination, shall practice solely in public school divisions; holding a license as a school speech-language pathologist pursuant to this section shall not authorize such persons to practice outside the school setting or in any setting other than the public schools of the Commonwealth, unless such individuals are licensed by the Board of Audiology and Speech-Language Pathology to offer to the public the services defined in § 54.1-2600.*

*The Board shall issue persons, holding dual licenses from the Board of Education with an endorsement in speech-language pathology and from the Board of Audiology and Speech-Language Pathology as school speech-language pathologists, a license which notes the limitations on practice set forth in this subsection.*

*Persons who hold licenses issued by the Board of Audiology and Speech-Language Pathology without these limitations shall be exempt from the requirements of this subsection.*

The office of the Attorney General has certified that the agency has the statutory authority to promulgate the proposed regulation and that it comports with applicable state and/or federal law.

## Purpose

*Please provide a statement explaining the need for the new or amended regulation. This statement must include the rationale or justification of the final regulatory action and detail the specific reasons it is essential to protect the health, safety or welfare of citizens. A statement of a general nature is not acceptable, particular rationales must be explicitly discussed. Please include a discussion of the goals of the proposal and the problems the proposal is intended to solve.*

Chapters 967 and 1005 of the 1999 Acts of the Assembly provide a specific mandate in § 54.1-2603 for the **licensure of school speech-language pathologists** and for the Board to license upon review of credentials and payment of an application fee in accordance with regulations of the Board. Regulations for the licensure of school speech-language pathologists by the Board were adopted in accordance with amended provisions of § 54.1-2603. Regulations of the Board for licensure and practice are promulgated to protect the health, safety and welfare of children who are in the need of speech-language pathology services.

Since the legislation mandating such licensure included an enactment clause directing the Boards of Education and Medical Assistance Services to promulgate regulations within 280 days, the Board of Audiology and Speech-Language Pathology has acted as expeditiously as possible on the development of these regulations. The intent of the legislation cannot be implemented until those persons, currently employed in the public school system and thereby exempt from licensure, can be licensed by the Board of Audiology and Speech-Language Pathology to practice in a limited setting. The Board cannot act on licensure, as mandated by the statute, until it has regulations in place for the required review of credentials and payment of an application fee for school speech-language pathologists.

## Substance

*Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. Please note that a more detailed discussion is required under the statement of the regulatory action's detail.*

Amendments to 18 VAC 30-20-10 et seq. are adopted to establish a definition of a school speech-language pathologist, an application fee of \$50, and the credentials for licensure as mandated by § 54.1-2603 of the Code of Virginia.

## Issues

*Please provide a statement identifying the issues associated with the final regulatory action. The term "issues" means: 1) the advantages and disadvantages to the public of implementing the new provisions; 2) the advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please include a sentence to that effect.*

The following issues were considered in the promulgation of amendments to regulation:

### **1) Qualifications for licensure.**

Chapters 967 and 1005 of the 1999 Acts of the Assembly amended the practice act for audiology and speech-language pathology by adding section B to §54.1-2603, which mandates that the Board promulgate regulations for the licensure of school speech-language pathologists. The Code is very specific that the Board shall issue a license "without examination" to persons "licensed by the Board of Education with an endorsement in speech-language pathology and a master's degree in speech-language pathology." Therefore, the Board was not authorized to impose additional criteria or qualifications for licensure, and the adopted regulations follow the specific language of the law.

### **2) Establishment of fees for school speech-language pathology.**

Since the credentials required for licensure of school speech-language pathologist are more limited than those required for persons licensed for independent practice, there should be less board member and staff time spent in review. Therefore, the Board determined that a lesser application fee was appropriate. The application fee for the school speech-language pathologist is set at \$50, while the regular application fee is set at \$100. Renewal fees, however, must cover the majority of expenditures of the board, including costs for investigations, disciplinary hearings, board meetings, mailings, and board staff. Since the school licensees will likely incur those costs at the same rate as current licensees, the Board determined that the current renewal fee of \$60 per biennium was appropriate.

### **3) Scope of practice for school speech-language pathologists.**

During the development of regulations, questions were raised about the scope of practice for school speech-language pathologists. While the statute is clear that their practice is limited to the public schools of the Commonwealth, but it does not further specify the scope of activities which are or are not permitted. However, the practice of speech-language pathology is defined in § 54.1-2600, so it is presumed that persons practicing with the school license would be practicing within that scope of practice definition. Therefore, the Board determined that no additional amendments were necessary or authorized to clarify the scope of practice for school speech-language pathologists, who are also subject to disciplinary action for unprofessional conduct if they practice without skill and safety.

### **Advantages to the licensees and the school systems:**

Persons seeking licensure as school speech-language pathologists will only need to meet the requirements of law - a master's degree in speech-language pathology and licensure from the

Department of Education with an endorsement in the field. There is very little benefit to the individuals holding this license, since it will not entitle them to practice outside the public schools where they are already employed.

The advantage of these regulations, which simply establish a license as required by law, is for the employers of the licensees who will seek Medicaid reimbursement for their services. If the Health Care Financing Authority does reimburse for services rendered by persons holding this limited license, schools will have significant additional dollars with which to pay for mandated services to children.

**Disadvantages to the licensees:**

For licensees, there will be some additional costs - \$50 to apply for the license and \$60 to renew the license every two years. In addition, persons holding the new license will be subject to the laws and regulations of the Board of Audiology and Speech-Language Pathology as well as the rules and policies of the Board of Education and the local school systems.

**Advantages or disadvantages to the public:**

The advantages of this license to the public are the possibility that additional Medicaid funding will be made available to support speech-language services thereby increasing the availability of such services to children in the public schools. In addition, local school funds that would be required to pay for such services may be available for other needs.

**Advantages or disadvantages to the agency:**

The Board may have to license and regulate as many as 1,000 new licensees, but there will be additional income through fees to support that activity. There should be very little impact on the Enforcement division, since the disciplinary load for this board is typically very low.

**Public Comment**

*Please summarize all public comment received during the public comment period and provide the agency response. If no public comment was received, please include a statement indicating that fact.*

Proposed regulations were published in the Virginia Register of Regulations on December 20, 1999 and public comment was received until February 18, 2000. A public hearing on the proposal was held on February 17, 2000. No oral or written comment was received.

**Detail of Changes**

*Please detail any changes, other than strictly editorial changes, that are being proposed. Please detail new substantive provisions, all substantive changes to existing sections, or both where appropriate. This statement should provide a section-by-section description - or crosswalk - of changes implemented by the*

*proposed regulatory action. Include citations to the specific sections of an existing regulation being amended and explain the consequences of the changes.*

**The following sections were amended pursuant to a new mandate in § 54.1-2603:**

**18 VAC 30-20-10. Definitions.**

A definition for "school speech-language pathologist" is added to clarify that it is a person licensed pursuant to § 54.1-2603 to provide speech-language pathology services in public school divisions.

**18 VAC 30-20-80. Fees.**

The proposed amendment would set the application fee at \$50, which is one-half the application fee for persons who are fully licensed to practice. The renewal and other fees have not been amended and would be the same for both categories of licensee.

**18 VAC 30-20-170. Requirements for licensure.**

The proposed amendments establish the requirements for licensure as specified in the Code of Virginia.

**18 VAC 30-20-180. Application process.**

An amendment is proposed to add the school speech-language pathologists to the requirements for submission of an application for licensure.

**18 VAC 30-20-230. Prohibited conduct.**

A proposed amendment would include in the section on prohibited conduct the practice of speech-language pathology outside the public school setting by a school speech-language pathologist.

### Family Impact Statement

*Please provide an analysis of the regulatory action that assesses the impact on the institution of the family and family stability including the extent to which the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

The Board has reviewed the adopted regulations and concludes that the amendments have no effect on strengthening the authority and rights of parents, on economic self-sufficiency, or on the marital commitment nor will these regulations increase or decrease disposable family income.